

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

207-CRM-M-47237-2024

Date of decision: 26.09.2024

Gurdeep Singh ... Petitioner

VS.

State of Punjab ... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. RS Bhullar, Advocate for the petitioner
Mr. Jaspal Singh Guru, AAG Punjab

Sandeep Moudgil, J.

Relief sought

The petitioner has filed the present petition under Section 483 BNSS seeking grant of regular bail in case FIR No.175 dated 06.04.2024 under Sections 379/411/420/465/467/471/472 IPC, registered at Police Station City Ferozepur, District Ferozepur.

Facts

Prosecution story set up in the present case as per the version of the version is as under:-

“To SHO PS City Ferozpur "Jai Hind" Today I ASI along with ASI Rajinderpal 1300/FZR, HG Gurwinder Singh 494/FZR, HG Balaur Singh 66/FZR, SC Rupinder Singh 766/FZR, C Sachin Kamboj 1412, PHG Ramandeep Singh No.11745 on the private vehicles along with laptop and printer were going to Shaheed Udham Singh Chowk, Agarsen Chowk, Housing Board colony etc. in relation to patrolling and checking of suspicious persons. While patrolling when police party was present at Shaheed Udham Singh Chowk Ferozpur City meanwhile one secret informer came present and informed me that Gurdeep Singh S/o Baaj Singh R/o Near filling station 'Bhatia vali basti and Rakesh Kumar S/o Ashok Kumar R/o Quarter No.579 Housing Board Colony Ferozpur City etc steal the tempos from different cities and by getting their registration number changed and tampered the engine number and chasis number

and by getting prepared the forged documents do sell them further. These both persons are roaming on motorcycle in wait for selling the tempo parked near the park of housing board colony. If raid is conducted immediately near the park of housing board colony then these both persons be apprehended. The information is reliable. The act of Gurdeep Singh S/o Baaj Singh R/o can near filling station Bhatia vali Basti and Rakesh Kumar S/o Ashok Kumar R/o Quarter number 579 Housing board colony Ferozpur city, of stealing the tempos from different cities and by getting their registration numbers changed and by tampering their engine numbers and chasis numbers and by getting prepared their forged documents for selling them fulfills the elements of offence under sections 379/411/420/465/467/471/472 of IPC. After writing, Ruqa is being sent to PS by hand of PHG Ramandeep Singh 11745 for registering the case against aforesaid. Kindly inform the case number after registration of the case. Kindly inform the PCR via wireless message. I ASI along with fellow officials am leaving for the spot in relation to conducting raid. The efforts will be made on the way to indulge the public witness. Today at Shaheed Udham Singh Chowk Ferozpur City Sd/0 Sharma Singh ASI PS City Ferozpur Dated 06.04.2024 At 04:35 PM.”

Submissions by petitioner counsel

Learned counsel for the petitioner argued that the petitioner has been falsely implicated in the present case. He contends that recoveries regarding the stolen Motorcycles shown from him has been planted upon him, the petitioner has neither committed any theft of any vehicle nor has forged any document. He submits that the petitioner is in custody since 06.04.2024. He submits that the Chief Judicial Magistrate, Ferozepur, has framed charges only under Sections 465, 467, 471 and 411 IPC vide order dated 03.08.2024

State's Contention

Learned State counsel has filed custody certificate dated 25.09.2024 which is taken on record and as per which, the petitioner has undergone total

sentence of 5 month and 15 days, pending trial. Besides, there is one other case pending against the petitioner wherein he is on bail. Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of regular bail but is not in a position to controvert the submissions made by counsel for the petitioner. He informs the Court that in the present FIR challan stands presented on 03.06.2024; charges stand framed on 03.08.2024 and out of 23 PWs, none have been examined so far.

Analysis

Heard learned counsel for the parties and gone through the record.

As far as the pendency or involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “***Baljinder Singh alias Rock vs. State of Punjab***” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

That apart, challan in the present case has been filed on 03.06.2024; investigation is complete and charges have been framed on 03.08.2024 and out of 23 PWs, none have been examined and for that reason the petitioner cannot be

put behind the bars for an indefinite period particularly in the light of the fact that there is no recovery effected by the police from the person of the petitioner.

From the above case it can be culled out that the Chief Judicial Magistrate, Ferozepur, has framed charges under Sections 465, 467, 471 and 411 IPC only in its order dated 03.08.2024, therefore, the petitioner is entitled to bail particularly in the light of the fact that once charges under Section 379 IPC have not been found viable for prosecution of the present petitioner, the question of forged documents qua the alleged stolen vehicle would also be doubtful and in that eventuality the petitioner would have strong probability of earning the acquittal.

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana, 2022(2) R.C.R. (Criminal) 85*** has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace inasmuch as out of total 10 PWs, only one PW has been examined so far and in that eventuality, it is abundantly clear that it will take certainly long time to

conclude and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another*;; (2018) 3 SCC 22”.

Decision

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

26.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No